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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,366	10/23/2003	Behram daCosta	81104/7114	7892
37123	7590	11/17/2004	EXAMINER	
FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603			TRAN, CONGVAN	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DT

Office Action Summary	Application No. 10/697,366	Applicant(s) DACOSTA, BEHRAM	
	Examiner CongVan Tran	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Miner (6,690,655).

Regarding claims 1, and 5-9, Miner discloses a low-power communication system, comprising: an in-band system providing in-band wireless communication (see abstract, fig.4, elements 212, 403, 215), wherein the in-band system has an active mode and a sleep mode (see fig.4, elements 407, 409 and description); and an out-of-band system providing out-of-band wireless communication (see fig.4, element 405), wherein the out-of-band system is coupled with the in-band system (see fig.4, elements 405, 403), and the out-of-band system receives an out-of-band wireless communication and activates the in-band system causing the in-band system to transition from the sleep mode to the activate mode (see abstract, fig.4, elements 213, 409, 407, col.17, lines 19-47 and description).

Regarding claim 2, Miner further discloses wherein the out-of-band system includes a controller, such that a least a portion of the out-of-band wireless

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communication is directed to the controller and the controller activates the in-band system causing the in-band system to transition from the sleep mode to the activate mode (see fig.3, element 303, and its description).

Regarding claims 3-4, Miner further discloses, wherein the controller further transmits an out-of-band communication (see fig.3, element 303, 213 and its description).

Regarding claim 10-13, Miner discloses a low-power communication system, comprising: an in-band system (see abstract, fig.4, elements 403, 401); and an out-of-band system coupled with the in-band system (see fig.4, elements 405, 403), wherein the out-of-band system activates the in-band system when the out-of-band system wirelessly receives an out-of-band communication, such that the in-band system provides wirelessly in-band communication (see abstract, fig.4, elements 213, 409, 407, col.17, lines 19-47 and description).

Regarding claims 14-20, Miner discloses a low-power communication system, comprising: maintaining an in-band system in a sleep mode (see abstract, fig.4, element 409, and description); receiving a wireless out-of-band communication (see fig.4, elements 213, 405, and description); activating the in-band system in response to the out-of-band communication (see fig.4, elements 213, 405, 409, 407, 403, and description); and transitioning the in-band system from the sleep mode to an active mode (see abstract, fig.4, elements 213, 409, 407, col.17, lines 19-47 and description).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 703-305-4024. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CONGVAN TRAN
PRIMARY EXAMINER

CongVan Tran
Examiner
Art Unit 2683

TCU
Nov. 08, 2004.